

AMENDED IN ASSEMBLY MAY 13, 2002

AMENDED IN ASSEMBLY APRIL 22, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2760

Introduced by Assembly Member Simitian

February 25, 2002

An act to amend Sections ~~10702~~ 10700, 10702, and 10703 of, and to add Chapter 3 (commencing with Section 10730) to Part 6 of Division 10 of, the Elections Code, *and to amend Section 1770 of the Government Code*, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 2760, as amended, Simitian. Elections: special elections.

Existing law provides procedures for special elections to fill vacancies in congressional offices. These procedures provide for the issuance of a gubernatorial proclamation calling for a special election, the nomination of candidates, the setting of a date for a special primary election, and, if no candidate receives a majority of the votes cast, the setting of a date for a special general election.

This bill would provide procedures for expedited special elections to fill vacancies in congressional offices caused by a natural or man-made catastrophe that results in the death or disappearance, as defined, of at least $\frac{1}{4}$ of the total membership of the United States House of Representatives, including any number of California Representatives, or at least $\frac{1}{4}$ of the total membership of the California congressional delegation. It would require the Governor to issue a proclamation within 7 days of the catastrophe calling for a special election to fill a

vacancy on a Tuesday at least 56 days, but not more than 63 days, following the issuance of the proclamation, as specified.

This bill, by increasing the duties of local election officials, would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 10700 of the Elections Code is amended*
2 *to read:*

3 10700. The Governor shall call all statewide special elections
4 by issuing a proclamation pursuant to Section 12000. ~~In~~ *Except as*
5 *provided by Chapter 3 (commencing with Section 10730), in the*
6 *case of a vacancy in a congressional or legislative office the*
7 *Governor shall issue a proclamation, within 14 calendar days of*
8 *the occurrence of the vacancy, calling a special election in*
9 *accordance with Section 10703. A copy of the proclamation shall*
10 *be sent to the board of supervisors of every each affected county.*

11 SEC. 2. Section 10702 of the Elections Code is amended to
12 read:

13 10702. Except as provided by Chapter 3 (commencing with
14 Section 10730), this chapter provides the procedures for
15 nomination and election of candidates at any special election to fill
16 a vacancy in the office of Representative in Congress, State
17 Senator, or Member of the Assembly.

18 ~~SEC. 2.—~~

19 SEC. 3. Section 10703 of the Elections Code is amended to
20 read:



10703. (a) A special election to fill a vacancy in the office of Representative in Congress, State Senator, or Member of Assembly shall be conducted on a Tuesday at least 112 days, but not more than 119 days, following the issuance of an election proclamation by the Governor pursuant to Section 1773 of the Government Code, except that any special election may be conducted within 180 days following the proclamation in order that the election or the primary election may be consolidated with the next regularly scheduled statewide election or local election occurring wholly or partially within the same territory in which the vacancy exists, provided that the voters eligible to vote in the local election comprise at least 50 percent of all the voters eligible to vote on the vacancy.

(b) Except as provided in Chapter 3 (commencing with Section 10730), a special election or a primary election may not be conducted on the day after a state holiday.

~~SEC. 3.—~~

SEC. 4. Chapter 3 (commencing with Section 10730) is added to Part 6 of Division 10 of the Elections Code, to read:

CHAPTER 3. VACANCIES IN CONGRESSIONAL OFFICES CAUSED BY
CATASTROPHE

10730. (a) This chapter provides the procedures for nomination and election of candidates at a special election to fill vacancies in the House of Representatives caused by a catastrophe.

(b) The procedures provided by Chapter 1 (commencing with Section 10700) shall apply to special elections to the extent those provisions are not inconsistent with this chapter.

10731. For purposes of this chapter:

(a) “Catastrophe” means a natural or man-made event that causes a vacancy in at least one-fourth of the total number of offices of the United States House of Representatives, including any number of offices representing California, or at least one-fourth of the total number of offices representing California.

(b) “Vacancy” means the death or disappearance, as a result of a catastrophe, of a Representative in Congress.

(c) “Disappearance” means the inability to establish conclusively whether a Representative in Congress has survived a catastrophe.

1 10732. Within seven calendar days of a catastrophe, the
2 Governor shall issue a proclamation calling a special election
3 pursuant to Section 10703.

4 10733. In the event of a catastrophe, a special election to fill
5 a vacancy in the office of Representative in Congress shall be
6 conducted on a Tuesday at least 56 days, but not more than 63 days,
7 following the issuance of an election proclamation by the
8 Governor, except that any special election may be conducted
9 within 90 days following the proclamation in order that the
10 ~~election or the primary~~ *special* election may be consolidated with
11 the next regularly scheduled statewide election or local election
12 occurring wholly or partially within the same territory in which the
13 vacancy exists, provided that the voters eligible to vote in the local
14 election comprise at least 50 percent of all the voters eligible to
15 vote on the vacancy.

16 10734. (a) No special primary election shall be held.
17 Candidates at the special general election shall be nominated in the
18 manner set forth in Chapter 1 (commencing with Section 8000) of
19 Part 1 of Division 8, except that nomination papers shall not be
20 circulated more than ~~28~~ 46 days before the ~~primary~~ *special*
21 *general* election, shall be left with the county elections official for
22 examination not less than ~~28~~ 32 days before the ~~primary~~ *special*
23 *general* election, and shall be filed with the Secretary of State not
24 less than 28 days before the ~~primary~~ *special general* election.

25 (b) Notwithstanding Section 3001, applications for absent
26 voter ballots may be submitted not more than 28 days before the
27 ~~primary~~ *special general* election, except that Section 3001 shall
28 apply if the special ~~election or special primary~~ *general* election is
29 consolidated with a statewide election. Applications received by
30 the elections official prior to the 28th day shall not be returned to
31 the sender, but shall be held by the elections official and processed
32 by him or her following the 28th day prior to the election in the
33 same manner as if received at that time.

34 ~~SEC. 4.~~

35 *SEC. 5. Section 1770 of the Government Code is amended to*
36 *read:*

37 1770. An office becomes vacant on the happening of any of
38 the following events before the expiration of the term:

39 (a) The death of the incumbent.

1 (b) An adjudication pursuant to a quo warranto proceeding
2 declaring that the incumbent is physically or mentally
3 incapacitated due to disease, illness, or accident and that there is
4 reasonable cause to believe that the incumbent will not be able to
5 perform the duties of his or her office for the remainder of his or
6 her term. This subdivision shall not apply to offices created by the
7 California Constitution nor to federal or state legislators.

8 (c) His or her resignation.

9 (d) His or her removal from office.

10 (e) His or her ceasing to be an inhabitant of the state, or if the
11 office be local and one for which local residence is required by law,
12 of the district, county, or city for which the officer was chosen or
13 appointed, or within which the duties of his or her office are
14 required to be discharged. However, the office of judge of a
15 municipal court shall not become vacant when, as a result of a
16 change in the boundaries of a judicial district during an
17 incumbent's term, the incumbent ceases to be an inhabitant of the
18 district for which he or she was elected or appointed to serve.

19 (f) His or her absence from the state without the permission
20 required by law beyond the period allowed by law.

21 (g) His or her ceasing to discharge the duties of his or her office
22 for the period of three consecutive months, except when prevented
23 by sickness, or when absent from the state with the permission
24 required by law.

25 (h) His or her conviction of a felony or of any offense involving
26 a violation of his or her official duties. An officer shall be deemed
27 to have been convicted under this subdivision when trial court
28 judgment is entered. For the purposes of this subdivision, "trial
29 court judgment" means a judgment by the trial court either
30 sentencing the officer or otherwise upholding and implementing
31 the plea, verdict, or finding.

32 (i) His or her refusal or neglect to file his or her required oath
33 or bond within the time prescribed.

34 (j) The decision of a competent tribunal declaring void his or
35 her election or appointment.

36 (k) The making of an order vacating his or her office or
37 declaring the office vacant when the officer fails to furnish an
38 additional or supplemental bond.

39 (l) His or her commitment to a hospital or sanitarium by a court
40 of competent jurisdiction as a drug addict, dipsomaniac, inebriate,

1 or stimulant addict; but in that event the office shall not be deemed
2 vacant until the order of commitment has become final.

3 (m) *His or her disappearance, as defined in subdivision (c) of*
4 *Section 10730 of the Elections Code.*

5 SEC. 6. Notwithstanding Section 17610 of the Government
6 Code, if the Commission on State Mandates determines that this
7 act contains costs mandated by the state, reimbursement to local
8 agencies and school districts for those costs shall be made pursuant
9 to Part 7 (commencing with Section 17500) of Division 4 of Title
10 2 of the Government Code. If the statewide cost of the claim for
11 reimbursement does not exceed one million dollars (\$1,000,000),
12 reimbursement shall be made from the State Mandates Claims
13 Fund.

